



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2006 REGULAR SESSION

SENATE BILL NO. 127

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The following bill was reported to the House from the Senate and ordered to be printed.

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SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY R. Adler

AN ACT relating to medical licensing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

1 Section 1. KRS 311.550 is amended to read as follows:

2 As used in KRS 311.530 to 311.620 and KRS 311.990(4) to (6):

- 3 (1) "Board" means the State Board of Medical Licensure;
- 4 (2) "President" means the president of the State Board of Medical Licensure;
- 5 (3) "Secretary" means the secretary of the State Board of Medical Licensure;
- 6 (4) "Executive director" means the executive director of the State Board of Medical
7 Licensure or any assistant executive directors appointed by the board;
- 8 (5) "General counsel" means the general counsel of the State Board of Medical
9 Licensure or any assistant general counsel appointed by the board;
- 10 (6) "Regular license" means a license to practice medicine or osteopathy at any place in
11 this state;
- 12 (7) "Limited license" means a license to practice medicine or osteopathy in a specific
13 institution or locale to the extent indicated in the license;
- 14 (8) "Temporary permit" means a permit issued to a person who has applied for a regular
15 license, and who appears from verifiable information in the application to the
16 executive director to be qualified and eligible therefor;
- 17 (9) "Emergency permit" means a permit issued to a physician currently licensed in
18 another state, authorizing the physician to practice in this state for the duration of a
19 specific medical emergency, not to exceed thirty (30) days;
- 20 (10) Except as provided in subsection (11) of this section, the "practice of medicine or
21 osteopathy" means the diagnosis, treatment, or correction of any and all human
22 conditions, ailments, diseases, injuries, or infirmities by any and all means,
23 methods, devices, or instrumentalities;
- 24 (11) The "practice of medicine or osteopathy" does not include the practice of Christian
25 Science, the domestic administration of family remedies, the rendering of first aid

1 or medical assistance in an emergency in the absence of a person licensed to
 2 practice medicine or osteopathy under the provisions of this chapter, the use of
 3 automatic external defibrillators in accordance with the provisions of KRS 311.665
 4 to 311.669, the practice of podiatry as defined in KRS 311.380, the practice of a
 5 midlevel health care practitioner as defined in KRS 216.900, the practice of
 6 dentistry as defined in KRS 313.010, the practice of optometry as defined in KRS
 7 320.210, the practice of chiropractic as defined in subsection (2) of KRS 312.015,
 8 the practice as a nurse as defined in KRS 314.011, the practice of physical therapy
 9 as defined in KRS 327.010, the performance of duties for which they have been
 10 trained by paramedics licensed under KRS Chapter 311A, first responders, or
 11 emergency medical technicians certified under Chapter 311A, the practice of
 12 pharmacy by persons licensed and registered under KRS 315.050, the sale of drugs,
 13 nostrums, patented or proprietary medicines, trusses, supports, spectacles,
 14 eyeglasses, lenses, instruments, apparatus, or mechanisms that are intended,
 15 advertised, or represented as being for the treatment, correction, cure, or relief of
 16 any human ailment, disease, injury, infirmity, or condition, in regular mercantile
 17 establishments, or the practice of midwifery by women. KRS 311.530 to 311.620
 18 shall not be construed as repealing the authority conferred on the Cabinet for Health
 19 and Family Services by KRS Chapter 211 to provide for the instruction,
 20 examination, licensing, and registration of all midwives through county health
 21 officers;

22 (12) "Physician" means a doctor of medicine or a doctor of osteopathy;

23 (13) "Grievance" means any allegation in whatever form alleging misconduct by a
 24 physician;

25 (14) "Charge" means a specific allegation alleging a violation of a specified provision of
 26 this chapter;

27 (15) "Complaint" means a formal administrative pleading that sets forth charges against

- 1 a physician and commences a formal disciplinary proceeding;
- 2 (16) As used in KRS 311.595(4), "crimes involving moral turpitude" shall mean those
3 crimes which have dishonesty as a fundamental and necessary element, including
4 but not limited to crimes involving theft, embezzlement, false swearing, perjury,
5 fraud, or misrepresentation;
- 6 (17) "Telehealth" means the use of interactive audio, video, or other electronic media to
7 deliver health care. It includes the use of electronic media for diagnosis,
8 consultation, treatment, transfer of medical data, and medical education;
- 9 (18) "Order" means a direction of the board or its panels made or entered in writing that
10 determines some point or directs some step in the proceeding and is not included in
11 the final order;
- 12 (19) "Agreed order" means a written document that includes but is not limited to
13 stipulations of fact or stipulated conclusions of law that finally resolves a grievance,
14 a complaint, or a show cause order issued informally without expectation of further
15 formal proceedings in accordance with KRS 311.591(6);
- 16 (20) "Final order" means an order issued by the hearing panel that imposes one (1) or
17 more disciplinary sanctions authorized by this chapter;
- 18 (21) "Letter of agreement" means a written document that informally resolves a
19 grievance, a complaint, or a show cause order and is confidential in accordance with
20 KRS 311.619;
- 21 (22) "Letter of concern" means an advisory letter to notify a physician that, although
22 there is insufficient evidence to support disciplinary action, the board believes the
23 physician should modify or eliminate certain practices and that the continuation of
24 those practices may result in action against the physician's license;
- 25 (23) "Motion to revoke probation" means a pleading filed by the board alleging that the
26 licensee has violated a term or condition of probation and that fixes a date and time
27 for a revocation hearing;

- 1 (24) "Revocation hearing" means a hearing conducted in accordance with KRS Chapter
2 13B to determine whether the licensee has violated a term or condition of probation;
- 3 (25) "Chronic or persistent alcoholic" means an individual who is suffering from a
4 medically diagnosable disease characterized by chronic, habitual, or periodic
5 consumption of alcoholic beverages resulting in the interference with the
6 individual's social or economic functions in the community or the loss of powers of
7 self-control regarding the use of alcoholic beverages;
- 8 (26) "Addicted to a controlled substance" means an individual who is suffering from a
9 medically diagnosable disease characterized by chronic, habitual, or periodic use of
10 any narcotic drug or controlled substance resulting in the interference with the
11 individual's social or economic functions in the community or the loss of powers of
12 self-control regarding the use of any narcotic drug or controlled substance;
- 13 (27) "Provisional permit" means a temporary permit issued to a licensee engaged in the
14 active practice of medicine within this Commonwealth who has admitted to
15 violating any provision of KRS 311.595 that permits the licensee to continue the
16 practice of medicine until the board issues a final order on the registration or
17 reregistration of the licensee;
- 18 (28) "Fellowship training license" means a license to practice medicine or osteopathy in
19 a fellowship training program as specified by the license; and
- 20 (29) "Special faculty license" means a license to practice medicine that is limited to the
21 extent that this practice is incidental to a necessary part of the practitioner's
22 academic appointment at~~[instruction as part of]~~ an accredited medical school
23 program or osteopathic school program and any affiliated institution for which the
24 medical school or osteopathic school has assumed direct responsibility.
- 25 Section 2. KRS 311.571 is amended to read as follows:
- 26 (1) No applicant who is a graduate of a medical or osteopathic school located within the
27 United States and its territories and protectorates or Canada shall be eligible for a

1 regular license to practice medicine in the Commonwealth unless the applicant:

- 2 (a) Is able to understandably speak, read, and write the English language;
- 3 (b) Has graduated from an accredited college or university or has satisfactorily
- 4 completed a collegiate course of study necessary for entry into an approved
- 5 medical or osteopathic school or college;
- 6 (c) Has graduated from a prescribed course of instruction in a medical or
- 7 osteopathic school or college situated in the United States or Canada and
- 8 approved by the board;
- 9 (d) Has satisfactorily completed a prescribed course of postgraduate training of a
- 10 duration to be established by the board in an administrative regulation
- 11 promulgated in accordance with KRS Chapter 13A, after consultation with the
- 12 University of Kentucky College of Medicine, the University of Louisville
- 13 School of Medicine, and the Pikeville College School of Osteopathic
- 14 Medicine;
- 15 (e) Has successfully completed an examination prescribed by the board;
- 16 (f) Has complied with the requirements of KRS 214.615(1); and
- 17 (g) Has fulfilled all other reasonable qualifications for regular licensure that the
- 18 board may prescribe by regulation.

19 (2) No applicant who is a graduate of a medical or osteopathic school located outside
20 the United States or Canada shall be eligible for a regular license to practice
21 medicine in the Commonwealth unless the applicant:

- 22 (a) Is able to understandably speak, read, and write the English language;
- 23 (b) Has successfully completed a course of study necessary for entry into an
- 24 approved medical or osteopathic school or college;
- 25 (c) Has graduated from a prescribed course of instruction in a medical or
- 26 osteopathic school or college situated outside the United States or Canada and
- 27 approved by the board or is a citizen of the United States and has been

1 awarded a diploma by an approved medical or osteopathic school located
2 within the United States or Canada as part of a program designed to allow for
3 the transfer of students to such schools from schools located outside the
4 United States or Canada;

5 (d) Has successfully completed an examination prescribed by the board;

6 (e) Has been certified by the educational commission for foreign medical
7 graduates or by an approved United States specialty board;

8 (f) Has satisfactorily completed a prescribed course of postgraduate training of a
9 duration to be established by the board in an administrative regulation
10 promulgated in accordance with KRS Chapter 13A, after consultation with the
11 University of Kentucky College of Medicine, the University of Louisville
12 School of Medicine, and the Pikeville College School of Osteopathic
13 Medicine;

14 (g) Has complied with the requirements of KRS 214.615(1); and

15 (h) Has fulfilled all other reasonable qualifications for regular licensure that the
16 board may prescribe by regulation.

17 (3) No applicant shall be eligible for a limited license-institutional practice unless the
18 applicant:

19 (a) Has fulfilled all the requirements for regular licensure as delineated in
20 subsection (1) of this section; or

21 (b) Has fulfilled the requirements for regular licensure as delineated in paragraphs
22 (a) through (e) and (h) of subsection (2) of this section and in addition has
23 satisfactorily completed a prescribed course of postgraduate training of at least
24 one (1) full year's duration approved by the board;

25 (c) Has complied with the requirements of KRS 214.615(1); and

26 (d) Has fulfilled all other reasonable qualifications for limited licensure that the
27 board may prescribe by regulation.

- 1 (4) The board may grant an applicant a limited license-institutional practice for a
 2 renewable period of one (1) year if the applicant:
- 3 (a) Has fulfilled the requirements for regular licensure as delineated in paragraphs
 4 (a), (b), (d), (e), and (h) of subsection (2) of this section;
 - 5 (b) Has fulfilled the requirements for a limited license-institutional practice as
 6 indicated in subsection (3)(d) of this section;
 - 7 (c) Has satisfactorily completed a prescribed course of postgraduate training of at
 8 least one (1) full year's duration approved by the board; and
 - 9 (d) Has complied with the requirements of KRS 214.615(1).
- 10 (5) The board may grant an applicant a fellowship training license for a renewable
 11 period of one (1) year if the applicant:
- 12 (a) Has been accepted for a fellowship approved by the administration of any of
 13 Kentucky's medical schools and conducted under the auspices of that medical
 14 school; or
 - 15 (b) Has graduated from a medical school located outside the United States or
 16 Canada that has been approved by the board; and
 - 17 1. Has been certified by the appropriate licensing authority in his or her
 18 home country in the subject specialty of the fellowship; and
 - 19 2. Is able to demonstrate that he or she is a physician of good character and
 20 is in good standing in the country where he normally practices medicine.
- 21 (6) (a) The board may grant an applicant a special faculty license for a renewable
 22 period of one (1) year if the applicant:
- 23 1. Holds or has been offered a full-time faculty appointment at an
 24 accredited Kentucky medical or osteopathic school approved by the
 25 board and is nominated for a special faculty license by the dean of the
 26 school of medicine or school of osteopathy;
 - 27 2. Possesses a current valid license to practice medicine or osteopathy

- 1 issued by another state, country, or other jurisdiction;
- 2 3. Is able to understandably speak, read, and write the English language;
- 3 4. Is board certified in his or her specialty;
- 4 5. Is not otherwise eligible for a regular license under this chapter; and
- 5 6. Is not subject to denial of a license under any provision of this chapter.
- 6 (b) The applicant shall submit the fee established by administrative regulation
- 7 promulgated by the board for an initial license to practice medicine.
- 8 (c) An applicant approved for a license under this subsection shall not engage in
- 9 the practice of medicine or osteopathy outside an accredited medical school
- 10 program or osteopathic school program and any affiliated institution or
- 11 program for which the medical school or osteopathic school has assumed
- 12 direct responsibility~~[academic setting]~~.
- 13 (d) The board may grant a regular license to practice medicine or osteopathy to a
- 14 person who has had a special faculty license for a period of at least five (5)
- 15 consecutive years.
- 16 (7) An applicant seeking regular licensure in the Commonwealth who was originally
- 17 licensed in another state may obtain licensure in the Commonwealth without
- 18 further testing and training if the applicant:
- 19 (a) Has been endorsed in writing by the applicant's original licensing state as
- 20 being licensed in good standing in that state; and
- 21 (b) Would have satisfied all the requirements for regular licensure described in
- 22 the preceding subsections had the applicant sought original licensure in this
- 23 state.
- 24 (8) No applicant shall be granted licensure in the Commonwealth unless the applicant
- 25 has successfully completed an examination prescribed by the board in accordance
- 26 with any rules that the board may establish by regulation concerning passing scores,
- 27 testing opportunities and test score recognition.

1 (9) Notwithstanding any of the requirements for licensure established by subsections
2 (1) to (8) of this section and after providing the applicant or reregistrant with
3 reasonable notice of its intended action and after providing a reasonable opportunity
4 to be heard, the board may deny licensure to an applicant or the reregistrant of an
5 inactive license without a prior evidentiary hearing upon a finding that the applicant
6 or reregistrant has violated any provision of KRS 311.595 or 311.597 or is
7 otherwise unfit to practice. Orders denying licensure may be appealed pursuant to
8 KRS 311.593.

9 (10) Notwithstanding any of the foregoing, the board may grant licensure to an applicant
10 in extraordinary circumstances upon a finding by the board that based on the
11 applicant's exceptional education, training, and practice credentials, the applicant's
12 practice in the Commonwealth would be beneficial to the public welfare.

13 (11) Notwithstanding any provision of this section, the board may exercise its discretion
14 to grant a visiting professor license to an applicant after considering the following:

- 15 (a) Whether the applicant meets the qualifications for a regular license;
- 16 (b) Whether the applicant is licensed to practice medicine in other states or in
17 other countries; and
- 18 (c) The recommendation of the program director of an accredited medical school
19 that confirms the applicant's employment as a visiting professor and that
20 includes, if necessary, written justification for a waiver of the requirements
21 specified in subsections (1) and (2) of this section.

22 Orders denying applications for a visiting professor license shall not be appealed
23 under KRS 311.593.

24 Section 3. KRS 311.592 is amended to read as follows:

- 25 (1) At any time when an inquiry panel has probable cause to believe that a physician
26 has violated the terms of an agreed order or violated the terms of a disciplinary
27 order, or a physician's practice constitutes a danger to the health, welfare, and safety

1 of his patients or the general public, the inquiry panel may issue an emergency
 2 order, in accordance with KRS 13B.125, suspending, limiting, or restricting the
 3 physician's license.

4 (2) For the purposes of a hearing conducted under KRS 13B.125 on an emergency
 5 order issued under subsection (1) of this section, the findings of fact in the
 6 emergency order shall constitute a rebuttable presumption of substantial evidence of
 7 a violation of law that constitutes immediate danger to the health, welfare, or safety
 8 of patients or the general public. For the purposes of this hearing only, hearsay shall
 9 be admissible and may serve as a basis of the board's findings.

10 (3) An emergency order as described in subsection (1) of this section shall not be issued
 11 unless grounds exist for the issuance of a complaint or a motion to revoke
 12 probation or an order of indefinite restriction or limitation. The inquiry panel
 13 shall issue a complaint or a motion to revoke probation or indefinite restriction or
 14 limitation prior to the date of the emergency hearing or the emergency order shall
 15 become void.

16 (4) An order of temporary suspension, restriction, or limitation shall not be maintained
 17 after a final order is served on the charged physician pursuant to the proceeding on
 18 the complaint or on the motion to revoke. An appeal of an emergency order shall
 19 not prejudice the board from proceeding upon the complaint or the motion to
 20 revoke.

21 Section 4. KRS 311.594 is amended to read as follows:

22 (1) When a hearing panel imposes discipline in a final order pursuant to KRS 13B.120
 23 and 311.591(7), the panel may fix the appropriate sanction for the violation, but
 24 withhold imposition of the sanction under an order of probation for a period of not
 25 more than five (5) years, or under an order of indefinite restriction or limitation,
 26 with the requirement that the physician fully comply with the terms and conditions
 27 specified by the panel as necessary for the protection of the public and rehabilitation

1 of the physician's practice.

2 (2) If the board receives information that a licensee has violated a term or condition of
 3 an order of probation, or an order of indefinite restriction or limitation, issued
 4 under subsection (1) of this section during the effective period of that order, the
 5 board shall investigate the allegations as necessary. The board shall have all of the
 6 powers outlined in KRS 311.591(2) and 311.605(2) to conduct its investigation.

7 (3) Upon completion of its inquiry relating to a violation of probation, the hearing panel
 8 shall make a finding that:

9 (a) The investigation does not disclose a violation of the order of probation or the
 10 order of indefinite restriction or limitation;

11 (b) The investigation discloses a violation of a term or condition of the order of
 12 probation or the order of indefinite restriction or limitation but that
 13 revocation of probation or the order of indefinite restriction or limitation and
 14 imposition of the previously fixed sanction may not be necessary for
 15 protection of the public, and the panel may admonish or issue a letter of
 16 concern to the physician stating its findings and cautioning that another
 17 violation shall result in revocation of probation or the order of restriction or
 18 limitation and imposition of the previously fixed sanction; or

19 (c) The investigation discloses one (1) or more violations of the terms and
 20 conditions of the order of probation or of the order of indefinite restriction or
 21 limitation, and the panel shall cause a motion to revoke probation or a motion
 22 to revoke the order of indefinite restriction or limitation, to be prepared and
 23 signed by the presiding officer. The motion shall identify the term or condition
 24 violated and include a general statement of the nature of the violation and
 25 shall set a date and time for a revocation hearing.

26 (4) The hearing panel shall cause the motion to revoke probation or the motion to
 27 revoke the indefinite restriction or limitation, to be served on the physician by

1 personal delivery or by certified mail to the last address on record with the board for
2 the physician or the physician's representative.

3 (5) The hearing on the motion to revoke probation or the motion to revoke the order of
4 indefinite restriction or limitation shall be conducted in accordance with KRS
5 Chapter 13B, but the single issue to be decided shall be whether the physician has
6 violated a term or condition of the order of probation or the order of indefinite
7 restriction or limitation. Any recommended order issued under KRS 13B.110 shall
8 be limited to recommended findings of fact and recommended conclusions of law.

9 (6) Upon completion of the hearing on the motion to revoke probation or the motion to
10 revoke the indefinite restriction or limitation, the hearing panel shall issue an order
11 that:

12 (a) Denies the motion upon a conclusion that the order of probation has not been
13 violated;

14 (b) Finds a violation of the order of probation or the order of indefinite
15 restriction or limitation but does not impose the previously fixed sanction and
16 the panel may:

17 1. Modify the terms and conditions of probation or the indefinite
18 restriction or limitation to address issues presented during the hearing;

19 or

20 2. Admonish the physician or issue a letter of concern to the physician; or

21 (c) Imposes the previously fixed sanction.

22 Section 5. KRS 311.605 is amended to read as follows:

23 (1) The county boards of health shall report to the board and to the county and
24 Commonwealth's attorneys of their respective counties all violations of KRS
25 311.550 to 311.620 and shall assist in the enforcement thereof.

26 (2) (a) For the purpose of enforcing the provisions of KRS 311.550 to 311.620,
27 agents of the board shall have the power and authority:

- 1 1. To administer oaths;~~[-,]~~
- 2 2. To enter upon professional premises during periods when those
3 premises are otherwise open to patients or the public;~~[- at all times for~~
4 ~~the purpose of making inspections,]~~
- 5 3. To obtain~~[seize]~~ evidence, including but not limited to psychiatric or
6 nonpsychiatric records, by consent or pursuant to a subpoena or search
7 warrant;
- 8 4. To interview~~[interrogate]~~ all persons;~~[-]~~ and
- 9 5. To require the production of books, papers, documents, or other
10 evidence, either by consent or pursuant to a subpoena or search
11 warrant.

12 **(b)** The term "premises" as used in this subsection shall mean~~[include]~~ physician
13 offices, or a physician's primary place of practice, and all pharmacies and
14 health care facilities licensed or regulated by the Commonwealth. Agents of
15 the board may only require pharmacies to produce prescription records and
16 health care facilities to produce records of patients or physician peer reviews.
17 Such inspection or seizure of peer review records shall not affect the
18 confidential nature of those records as provided in KRS 311.377, and the
19 board shall maintain such peer review records so as to protect the
20 confidentiality thereof.

21 (3) The board may institute, in its own name, proceedings to temporarily or
22 permanently restrain and enjoin the practice of medicine by:

23 (a) An individual who is not licensed to practice medicine or who is not involved
24 in conduct specifically exempted from the requirements of this chapter by
25 KRS 311.550(11); or

26 (b) An individual who was previously licensed by the board to practice medicine
27 but is currently practicing medicine in violation of an emergency order of

1 restriction or suspension, regardless of whether the respondent has been
2 convicted for violation of the penal provisions thereof.

3 (4) A petition for injunction filed under subsection (3) of this section may be filed in
4 Jefferson Circuit Court, in the county of residence of the respondent, or in the
5 county in which the acts are alleged to have been committed, and the board shall not
6 be required to pay any costs or filing fees or furnish any bond in connection
7 therewith.

8 (a) In the petition it shall be sufficient to charge that the respondent on a day
9 certain in a named county engaged in the practice of medicine in violation of
10 subsection (3)(a) or (b) of this section. No showing of damage or injury shall
11 be required.

12 (b) Issuance of an injunction shall enjoin any act specified under subsection (3)(a)
13 or (b) of this section and shall remain in place as long as necessary to prevent
14 the unlawful practice of medicine.

15 (c) Issuance of an injunction shall not relieve the respondent from being subject
16 to any other proceeding under law provided by this chapter or otherwise.

17 (d) Violation of injunctions and restraining orders shall be punished as a contempt
18 without the intervention of a jury.

19 Section 6. KRS 311.990 is amended to read as follows:

20 (1) Any person who violates KRS 311.250 shall be guilty of a violation.

21 (2) Any college or professor thereof violating the provisions of KRS 311.300 to
22 311.350 shall be civilly liable on his bond for a sum not less than one hundred
23 dollars (\$100) nor more than one thousand dollars (\$1,000) for each violation,
24 which may be recovered by an action in the name of the Commonwealth.

25 (3) Any person who presents to the county clerk for the purpose of registration any
26 license which has been fraudulently obtained, or obtains any license under KRS
27 311.380 to 311.510 by false or fraudulent statement or representation, or practices

1 podiatry under a false or assumed name or falsely impersonates another practitioner
2 or former practitioner of a like or different name, or aids and abets any person in the
3 practice of podiatry within the state without conforming to the requirements of KRS
4 311.380 to 311.510, or otherwise violates or neglects to comply with any of the
5 provisions of KRS 311.380 to 311.510, shall be guilty of a Class A misdemeanor.
6 Each case of practicing podiatry in violation of the provisions of KRS 311.380 to
7 311.510 shall be considered a separate offense.

8 (4) ~~Each first violation of KRS 311.560 is a Class A misdemeanor. Each subsequent~~
9 violation of KRS 311.560 shall constitute a Class D felony.

10 (5) Each violation of KRS 311.590 shall constitute a Class D felony. Conviction under
11 this subsection of a holder of a license or permit shall result automatically in
12 permanent revocation of such license or permit.

13 (6) Conviction of willfully resisting, preventing, impeding, obstructing, threatening, or
14 interfering with the board or any of its members, or of any officer, agent, inspector,
15 or investigator of the board or the Cabinet for Health and Family Services, in the
16 administration of any of the provisions of KRS 311.550 to 311.620 shall be a Class
17 A misdemeanor.

18 (7) Each violation of subsection (1) of KRS 311.375 shall, for the first offense, be a
19 Class B misdemeanor, and, for each subsequent offense shall be a Class A
20 misdemeanor.

21 (8) Each violation of subsection (2) of KRS 311.375 shall, for the first offense, be a
22 violation, and, for each subsequent offense, be a Class B misdemeanor.

23 (9) Each day of violation of either subsection of KRS 311.375 shall constitute a
24 separate offense.

25 (10) (a) Any person who intentionally or knowingly performs an abortion contrary to
26 the requirements of KRS 311.723(1) shall be guilty of a Class D felony; and

27 (b) Any person who intentionally, knowingly, or recklessly violates the

1 requirements of KRS 311.723(2) shall be guilty of a Class A misdemeanor.

2 (11) (a) 1. Any physician who performs a partial-birth abortion in violation of KRS
3 311.765 shall be guilty of a Class D felony. However, a physician shall
4 not be guilty of the criminal offense if the partial-birth abortion was
5 necessary to save the life of the mother whose life was endangered by a
6 physical disorder, illness, or injury.

7 2. A physician may seek a hearing before the State Board of Medical
8 Licensure on whether the physician's conduct was necessary to save the
9 life of the mother whose life was endangered by a physical disorder,
10 illness, or injury. The board's findings, decided by majority vote of a
11 quorum, shall be admissible at the trial of the physician. The board shall
12 promulgate administrative regulations to carry out the provisions of this
13 subparagraph.

14 3. Upon a motion of the physician, the court shall delay the beginning of
15 the trial for not more than thirty (30) days to permit the hearing, referred
16 to in subparagraph 2. of this paragraph, to occur.

17 (b) Any person other than a physician who performs a partial-birth abortion shall
18 not be prosecuted under this subsection but shall be prosecuted under
19 provisions of law which prohibit any person other than a physician from
20 performing any abortion.

21 (c) No penalty shall be assessed against the woman upon whom the partial-birth
22 abortion is performed or attempted to be performed.

23 (12) Any person who intentionally performs an abortion with knowledge that, or with
24 reckless disregard as to whether, the person upon whom the abortion is to be
25 performed is an unemancipated minor, and who intentionally or knowingly fails to
26 conform to any requirement of KRS 311.732 is guilty of a Class A misdemeanor.

27 (13) Any person who negligently releases information or documents which are

1 confidential under KRS 311.732 is guilty of a Class B misdemeanor.

2 (14) Any person who performs an abortion upon a married woman either with
3 knowledge or in reckless disregard of whether KRS 311.735 applies to her and who
4 intentionally, knowingly, or recklessly fails to conform to the requirements of KRS
5 311.735 shall be guilty of a Class D felony.

6 (15) Any person convicted of violating KRS 311.750 shall be guilty of a Class B felony.

7 (16) Any person who violates KRS 311.760(2) shall be guilty of a Class D felony.

8 (17) Any person who violates KRS 311.770 or 311.780 shall be guilty of a Class D
9 felony.

10 (18) A person convicted of violating KRS 311.780 shall be guilty of a Class C felony.

11 (19) Any person who violates KRS 311.810 shall be guilty of a Class A misdemeanor.

12 (20) Any professional medical association or society, licensed physician, or hospital or
13 hospital medical staff who shall have violated the provisions of KRS 311.606 shall
14 be guilty of a Class B misdemeanor.

15 (21) Any administrator, officer, or employee of a publicly owned hospital or publicly
16 owned health care facility who performs or permits the performance of abortions in
17 violation of KRS 311.800(1) shall be guilty of a Class A misdemeanor.

18 (22) Any person who violates KRS 311.914 shall be guilty of a violation.

19 (23) Any person who violates the provisions of KRS 311.820 shall be guilty of a Class A
20 misdemeanor.

21 (24) (a) Any person who fails to test organs, skin, or other human tissue which is to be
22 transplanted, or violates the confidentiality provisions required by KRS
23 311.281, shall be guilty of a Class A misdemeanor;

24 (b) Any person who has human immunodeficiency virus infection, who knows he
25 is infected with human immunodeficiency virus, and who has been informed
26 that he may communicate the infection by donating organs, skin, or other
27 human tissue who donates organs, skin, or other human tissue shall be guilty

1 of a Class D felony.

2 (25) Any person who sells or makes a charge for any transplantable organ shall be guilty
3 of a Class D felony.

4 (26) Any person who offers remuneration for any transplantable organ for use in
5 transplantation into himself shall be fined not less than five thousand dollars
6 (\$5,000) nor more than fifty thousand dollars (\$50,000).

7 (27) Any person brokering the sale or transfer of any transplantable organ shall be guilty
8 of a Class C felony.

9 (28) Any person charging a fee associated with the transplantation of a transplantable
10 organ in excess of the direct and indirect costs of procuring, distributing, or
11 transplanting the transplantable organ shall be fined not less than fifty thousand
12 dollars (\$50,000) nor more than five hundred thousand dollars (\$500,000).

13 (29) Any hospital performing transplantable organ transplants which knowingly fails to
14 report the possible sale, purchase, or brokering of a transplantable organ shall be
15 fined not less than ten thousand dollars (\$10,000) or more than fifty thousand
16 dollars (\$50,000).

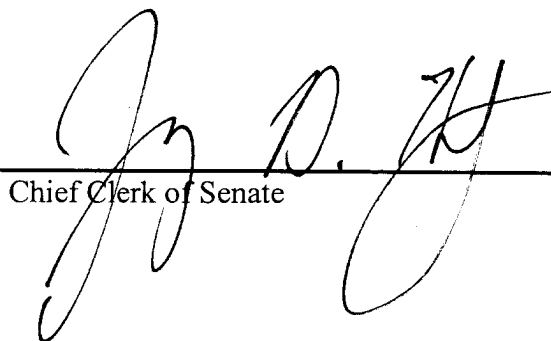


President of the Senate



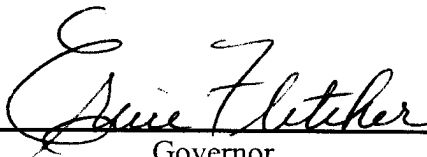
Speaker-House of Representatives

Attest:



Chief Clerk of Senate

Approved



Governor

Date

4/5/06